under protest. He then brought an action to recover the amounts so paid. *Held*, no recovery. *Mente* v. *Eisner*, 266 Fed. 161. See NOTES, p. 131.

INSURANCE—STANDARD FIRE POLICY—EFFECT OF VOID CHATTEL MORTGAGE UNDER THE MORTGAGE CLAUSE.—The plaintiff was the holder of a standard fire insurance policy issued by the defendant, with the usual clause against mortgages providing that it should be void if the property insured should be incumbered by a chattel mortgage, unless otherwise provided for by an agreement indorsed on the policy. Without notifying the company, the plaintiff mortgaged the property. The mortgage proved to be void for usury. After loss, in answer to a suit on the policy, the defendant set up the void mortgage as being a breach of the condition of the policy against incumbrances. *Held*, judgment for the defendant. *Lipedes* v. *Liverpool, etc., Insurance Co.*, 171 N. Y. Supp. 484, 128 N. E. 160.

It is a general rule of contract law that where doubt exists as to the meaning of a contract prepared by one party on the faith of which the other has incurred obligations, that construction should be adopted which is most favorable to the latter party. This rule finds a very ready application in insurance contracts, especially where a forfeiture is involved, the object being to grant rather than to deny indemnity. *Grace* v. *American Central Ins. Co.*, 109 U. S. 278; *Crowell* v. *Maryland Motor Car Ins. Co.*, 169 N. C. 35, 85 S. E. 37, Ann. Cas. 1917D 50; *Laue* v. *Grand Fraternity*, 132 Tenn. 235, 177 S. W. 941, Ann. Cas. 1917A 376.

In the instant case the policy involved contained a provision that it should be void if additional insurance valid or invalid were taken out. The mortgage clause contained no such stipulation. See Standard Fire Policy. There being this ambiguity, a case for the application of the above rule is made out.

The spirit and intention of the mortgage clause in a policy is to guard the insurer against any increase of moral hazard, involved in the changed relations of the insured to the property. *Rosenstein* v. *Traders' Ins. Co.*, 79 N. Y. Supp. 736; *Farmers & Merchants' Ins. Co.* v. *Jensen*, 56 Neb. 284, 76 N. W. 577, 44 L. R. A. 861; *Ayres* v. *Hartford Ins. Co.*, 17 Iowa 176, 85 Am. Dec. 553. Judicial decisions uniformly hold that where an insurer attempts to avoid a policy on the ground that the property was incumbered in violation of a term of a policy, it is incumbent upon him to show the incumbrance to have been such in reality as well as in appearance. *Rowland* v. *Home Ins. Co.*, 82 Kan. 220, 108 Pac. 118, 136 Am. St. Rep. 104; *Forward* v. *Continental Ins. Co.*, 142 N. Y. 382, 37 N. E. 615, 25 L. R. A. 637.

Under policies in reference to the provision there invalidating a policy upon the ground of "other insurance", it has been frequently held that the term other insurance meant other valid insurance. *Germania Fire Ins. Co.* v. *Klewer*, 129 Ill. 599, 22 N. E. 489; *Reed* v. *Equitable, etc., Ins. Co.*, 17 R. I. 785, 24 Atl. 833, 18 L. R. A. 496; *Phoenix Ins. Co.* v. *Copeland*, 86 Ala. 551, 6 So. 143, 4 L. R. A. 848.

The exact point involved in the instant case has been before the courts many times and the great majority have held contrary to the majority decision here. *Watertown Fire Ins. Co.* v. *Grover, etc., Co.*, 41 Mich. 131, 1 N. W. 961; *Rowland* v. *Home Ins. Co., supra; Weigen* v. *Council Bluffs Ins. Co.*, 104 Iowa 410, 73 N. W. 862; and see cases cited in dissenting opinion of the instant case. It would seem that the instant case is incorrectly decided.

In Virginia, the question is apparently an open one.

MASTER AND SERVANT—RIGHT OF PERSON SECURING EMPLOYMENT BY FRAUD TO RECOVER DAMAGES FOR INJURIES.—The defendant company had certain established rules governing the employment of men as brakemen. The plaintiff, knowing of these rules, and being unable to fulfil the requirements, procured a friend who was competent, to make application and take the physical examination in plaintiff's name. By means of the certificate thus fraudulently obtained, the plaintiff secured the position as brakeman. Being injured in the discharge of his duties, he brought an action for damages against the defendant, who pleaded specially the facts set out above. The plaintiff moved to strike out the defendant's plea. *Held,* the plea is good. *Stafford* v. *Baltimore, etc., R. Co.*, 262 Fed. 807.

The difficulty in cases of this sort is encountered in determining whether the relation existing between the plaintiff and the defendant is that of master and servant or of licensor and licensee.

To charge the defendant, it must be made to appear that the relation of master and servant existed at the time; and since this presupposes an understanding to that effect, if he who is injured is a mere volunteer, the master's duty towards him is only such as he owes to all strangers. *Manchester Mfg. Co.* v. *Polk*, 115 Ga. 542, 41 S. E. 1015; *New Orleans, etc., R. Co.* v. *Harrison*, 48 Miss. 112, 12 Am. Rep. 356.

Cases in which a minor was the party making the fraudulent representation have been before the courts many times with varying results. The majority of courts hold that a contract in such case is binding on the defrauded party until rescinded, and the relation of master and servant exists between the parties. *Hart* v. *New York, etc., R. Co.*, 205 N. Y. 317, 98 N. E. 493; *Lupher* v. *Atchinson, etc., R. Co.*, 81 Kan. 585, 106 Pac. 284, 25 L. R. A. (N. S.) 707.

The extreme opposite view is taken by the court in a comparatively recent Virginia case, which is apparently all of the Virgina law on the question. There it was laid down that where a minor knowingly misrepresents his age, and thereby secures employment, he is a trespasser, or at most, a bare licensee and not a servant, and the employer owes him no affirmative duty of protection. *Norfolk, etc., R. Co.* v. *Bondurant,* 107 Va. 515, 59 S. E. 1091, 15 L. R. A. (N. S.) 443, 122 Am. St. Rep. 867; *Fitzmaurice* v. *New York, etc., R. Co.*, 192 Mass. 159, 78 N. E. 410, 116 Am. St. Rep. 236, 7 Ann. Cas. 586, 6 L. R. A. (N. S.) 1146.

The case of *Lupher* v. *Atchinson,* cited *supra*, which severely criticises the decision of the Virgina Court, hinted in its decision that if the